January 11, 2008.

To the Honorable Senate and House of Representatives:

Pursuant to Part the Second, Chapter I, Section I, Article II of the Constitution of the Commonwealth, I am returning unsigned House Bill No. 4384, “An Act Releasing Certain Land in the Town of Reading From the Operation of A Restriction on Land”.

This legislation authorizes the town of Reading to release a conservation restriction on approximately 2.85 acres of land. I understand that the objective of this legislation is to allow the landowner to add a fourth story to an existing building and enlarge the footprint of the ground floor of the building. Working together, the Executive Office of Energy and Environmental Affairs, the Reading town counsel and the sponsors of this legislation, concluded that this objective can be achieved without legislative action. The enlargement of the footprint is within an area that already has been paved as expressly allowed by the conservation restriction. Accordingly, adding a fourth floor to the existing building in this case will not trigger Article 97 of the Constitution, because there is neither a “change in use” nor a “disposition” of land dedicated to open space.

However, the act of releasing the property from a conservation restriction, does not comply with this Administration’s Article 97 policy. Conservation restrictions are a successful vehicle to preserve
natural resources from adverse future change, and we must continue
to create and foster conservation restrictions to protect Massachu­
setts’ open spaces and recreational resources. This bill does not pro­
vide for no-net-loss of the conservation land, while unnecessarily
releasing the conservation restriction. Therefore, this legislation does
not satisfy this Administration’s no-net-loss policy under Article 97.

In sum, this legislation is unnecessary to achieve its ends, and
releasing a conservation restriction without necessity and without no­
net-loss mitigation runs afoul of our Article 97 policy. For these rea­
sons, I return House Bill No. 4384 unsigned.

Respectfully submitted,

DEVAL L. PATRICK,
Governor